



NAIROBI CITY COUNTY ASSEMBLY

OFFICIAL REPORT

First County Assembly – Fourth Session

Thursday 17th November, 2016

The House met at 2.30 p.m.

(Hon. Deputy Speaker Mr. Kennedy Ng'ondi in the Chair)

PRAYER

(Quorum bell rang for 10 minutes)

Hon. Deputy Speaker: Hon. Members we now have quorum and Clerk we may proceed.

PAPERS

Hon. Majority Chief Whip (Mr. Jaffer Kassam): Thank you Mr. Speaker sir, pursuant to section 135 (2) of the Public Finance Management Act 2012 I beg to lay the following papers on the table of the Assembly today Thursday 17th November 2016, proposed supplementary budget for the 2016/2017.

Hon. Deputy Speaker: Order Hon. Member before you lay the papers, Hon. Members the Sergeant-At-Arms please even we have not taken a single minute and Members waking out! It is disrespectful for this Assembly and it is totally unacceptable. Members can't just come in sign and leave the House. It is not allowed. Kindly just have some respect for yourself, contribute a bit then excuse yourself out of the Plenary but coming in and walking out seriously Sergeant-At-Arm don't allow it. You may proceed Hon. Jaffer.

Hon. Jaffer Kassam: Thank you Mr. Speaker sir, pursuant to section 135 (2) of the Public Finance Management Act 2012 I beg to lay the following papers on the table of the Assembly today Thursday 17th November 2016, proposed supplementary budget for the 2016/2017.

Mr. Speaker sir pursuant to section 135 (2) of the Public Finance Management Act 2012 I beg to lay the following papers on the table of the Assembly today Thursday 17th November 2016, supplementary financial estimates for recurrent and development expenditure for the Nairobi City County Assembly Service Board for 2016/2017.

Mr. Speaker sir pursuant to Article 229(7) of the Constitution 2010 I beg to lay the following papers on the table of the Assembly today Thursday 17th November 2016, report of the Auditor General on financial statements of Nairobi City Water and Sewerage company for the year ended 30th June 2015.

Hon. Deputy Speaker: Thank you Hon. Jaffer, Hon. Members I now direct that the first 2 reports on the proposed supplementary budget for the 2016/2017 and supplementary financial estimates for recurrent and development expenditure for the Nairobi City County Assembly Service Board for 2016/2017 be committed to the Budget and Appropriation for consideration and report back to the Assembly, thank you. I also commit report of the Auditor General on financial statements of Nairobi City Water and Sewerage Company for the year ended 30th June 2015 to the Committee on Public Investment for necessary action, thank you.

STATEMENTS

Hon. Deputy Speaker: We have a Member who requested for a statement, this is Hon. Ngaruiya Chege from the Chairperson on Sectoral Committee on Health Services regarding the status of Kamiti Prison Health Center, the Chair of Health please...do we have the Chair of Health? The Vice Chair of Health please?

Hon. Karen Wanjiku (Nominated Member): Mr. Speaker the report is not ready. We have discussed it today with the CEC Member, we will bring it next week Thursday before we go for recess.

Hon. Deputy Speaker: Thank you. Hon. Ngaruiya?

Hon. Member for Kamiti West Ward (Mr. Ngaruiya Chege): Thank you Mr. Speaker, I have the report. I don't know what Hon. Karen is talking about. And even the Clerk informed me that today they are going to read the statement so that I can see how I will contribute but since the Committee members on Health and the Chair have not briefed them I think it is in order we go as to what Karen is talking about, thank you.

Hon. Deputy Speaker: Thank you Hon. Ngaruiya. Hon. Karen kindly please it seems you did not have the correct information, now the position in regard to the pending report. The report is ready and is out

with the Member who requested for it but you have at least taken the responsibility on behalf of the committee that the report will be before the Assembly next week on Tuesday, thank you.

BILL

THE NAIROBI CITY COUNTY PUBLIC NUISANCE BILL 2016, ASSEMBLY BILL 7 OF 2016, SECOND READING

Hon. Deputy Speaker: This is a resumption of the debate which was interrupted due to lack of quorum yesterday and we will have to pick from where we left. We are at the plenary level where Members are able to contribute. Hon. Members, order Hon. Ngaruiya, your mic is on and you're busy...do we have any member who would wish to contribute? And am made to understand Hon. Abuka was interrupted before...he was left with 9 minutes to conclude his contribution.

Hon. William Abuka (Nominated Member): Thank you very much Hon. Speaker for once again giving me the time to say a few words concerning this Bill. Hon. Speaker as indicated yesterday am opposed to this Bill. We are not lost to the history of the City County Government Inspectorate Department. We know that indeed probably the Hon. Member who sponsored this Bill did not have any ill motives. Probably he had a very sincere and clean heart towards making sure there is regulation and proper management of the social political environment of our society but Hon. Speaker if we are not careful we are likely to give further ammunition to turn churches and houses of worship into another ring and string of toll stations. To be harassed by the rogue and indiscipline Nairobi County Inspectorate Department.

Indeed there need to be some regulations concerning noise and nuisance in the public but going by what we have seen before I think cascading that law down to what NEMA is using now would do a lot more good than us enacting another Bill to control the environment as stated in the Bill. Am totally against this, the houses of worship need to be respected and NEMA I think it is doing a commendable work. I am opposed.

Hon. Member for Land Mawe Ward (Mr. Herman Azangu): Mr. Speaker I also oppose the Motion because of one, two, three. When we live in Nairobi most of the people worship in their churches, mosques and use instruments, for example, in my church we use trumpets which cause noise. Also in mosques, they use very loud speakers. If we recommend this Bill, it will be very difficult for them to worship. I oppose the Motion.

Hon. Deputy Speaker: Hon. Waweru, you had pressed a request button.

Hon. Member for Uthiru/Ruthimitu Ward (Mr. John Waweru): Maybe someone else, not me.

Hon. Deputy Speaker: Hon. Members, allow me now to call the mover to reply.

Hon. Member for Viwandani Ward (Mr. Samuel Nyang'wara): Thank you, Mr. Speaker. I am actually surprised by the manner in which Members are contributing to this Motion. They know very well that our business here in this House is to transact business, make laws for this County. I am moving this Bill from the previous by-laws of the defunct City Council of Nairobi. We just want to enact the laws which govern this City. In fact this Bill is better off than the previous by-laws that the County Government is using at the moment. We are on the second Reading of this Motion.

Hon. Deputy Speaker: Order, Members! You can't rule the Member out of order when he is replying. Hon. Abuka.

Hon. William Abuka (Nominated Member): Mr. Speaker, I am surprised to see a former Member of the Speaker's panel educating us on our responsibilities. I am really upbeat about this Bill. He is addressing the Hon. Assembly of people who have the most beautiful Assembly in East and Central Africa half-naked.

Hon. Deputy Speaker: Serjeant-At-Arm, please confirm whether the Hon. Member is properly dressed. Hon. Members, allow me now to caution the Serjeant-At-Arms, kindly, please be monitoring the attire of the Members so that we don't get to such extent where a Member gets to be embarrassed. I don't know what befell Hon. Nyang'wara because he is always law abiding Member of this Assembly. Hon. Member, you may proceed, you are now properly dressed.

Hon. Samuel Nyang'wara: Thank you, Mr. Speaker. Allow me to apologize. I was concentrating on the Bill which made me to forget to dress as it is required. I was saying, I want to beg these Members to pass this Bill at this stage. Our work here is to make the laws. We cannot just decide to kill the process when Members have a leeway to make this Bill better. The Bill is not yet a law. It is a proposal, that is why we bring it to this House so that Members can contribute and bring up amendments and make it even better than it is. Remove the clauses that they think it will oppress the people of Nairobi and include what they think that are better. We can amend this Bill at the Committee Stage and make it better as it is at the moment.

Mr. Speaker, I want to say few things about this Bill: There are those clauses that are good. We cannot decide to kill the Bill at this stage simply because of one clause. The Committee that is responsible, that is the Committee on Environment and Agriculture are scheduled to go and discuss this Bill further and come up with amendment. It has already been forwarded to Member's gadgets. They can look into it and make it better than it is at the moment.

Mr. Speaker, this is one of the best counties in Africa, the problem we have that drags this City back is nuisance. Remember we used to have signs on our roads but nowadays you cannot even know when you are approaching a corner, a church, or a school. Even some of the zebra crossings are not marked. In this Bill, we want to compel the Executive to work and make sure our roads are properly signed. We want to secure churches. You will find a stage put close to a church and on Sunday when people are in church, you will find vehicles hooting loudly making members of the church not concentrate. We are not

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trying in any manner to gag the churches. We are not making any law to oppress the people of Nairobi, we are representing the people of Nairobi and whatever we are doing is to make Nairobi a better place to live in.

I would like to request Members of this Assembly to rise above the occasion and come up with amendments because this is just a proposal before this House. You can imagine what is happening in this City; if you go beyond Moi Avenue, you will be surprised. In this case, I am trying to say you cannot even drop your neighbor, your friend or you relative at a bus stage. Matatus have locked all the places that you cannot pass. We want to compel this County Government to give specific places for stages so that they can leave roads where other cars can pass. I ask Members to pass the Bill at this stage, and if they find those amendments will not be put in place at the Committee stage, still they have a leeway to deny this Bill. With those few remarks, I want to stop there and request Members to pass this Bill at this stage.

Hon. Deputy Speaker: Thank you. Order, Hon. Adow!

(Question put)

(Loud consultations)

Hon. Deputy Speaker: Order Hon. Members, I request for another opportunity to put the question again.

(Question put for a second time, followed by loud consultations)

DIVISION

Hon. Members, at this point, it is difficult to know where the interest of Members lie, and I so direct that the House moves for a division. Thank you.

Hon. Members, we have gone digital.

(Loud consultation)

Order members! Order! Kindly open your Standing Order No. 66 on electronic voting and I read;

“Unless the Speaker, for the convenience of the County Assembly otherwise directs, voting on a division in the County Assembly shall be by electronic voting.”

I have so directed. Order Members! Standing Order no. 66 (2);

“When the Speaker directs that an electronic voting to be taken, the Division Bell shall be rung for not more than ten minutes and the County Assembly shall proceed to a vote”

I so direct the Serjeant-At-Arm to ring the bell for---

(Loud consultations)

Serjeant-At-Arm, ring the bell under Standing Order no. 66 (2) for 10 minutes. Order Members! Serjeant-At-Arm, you can't allow any Member out.

(Loud consultations)

Order Members! Hon. Member, you can't walk out please! Serjeant-At-Arm!

(Loud consultations)

Order Hon. Members! Please get back to your seats Hon. Members! Order Members! Members, we are voting! Get seated.

Hon. Members, I am giving directions under Standing Order no. 66 (3) which states;

“During electronic voting, Members shall cast their votes by pressing either the “Yes”, “No” or “Abstain” button”

You cannot press more than once. You either press “yes”, “no” or “abstain”. Hon. Members, get your fingers on the button. I have given you one minute to rethink of your position. Hon. Members, can you press as you watch the screens? Make sure you don't press twice. Can you vote now?

(Loud consultations)

Hon. Members, as displayed on the screen, we only have 22 Members who have voted. We have 46 Members in the Assembly. It should be indicated at the zero (0), so no one has abstained. Order Hon. Members. We have the (+) for yes and (-) for no. Can you proceed with the voting?

(Loud consultations)

Order Member! We are voting.

(Loud consultations)

Order Members! It has been communicated from the system that Members are through with the voting. The total number of Members who have voted is 22. It can only be indicated you have abstained if you have pressed the button. These Members did not press the button of abstinence. The Members who have pressed the buttons are the nays and the ayes.

(Loud consultations)

(Loud consultations)

Hon. Deputy Speaker: Are you faulting the systems?

(Loud consultations)

Hon. Deputy Speaker: Do you want us to go manual?

(Shouting yes, others no)

Hon. Deputy Speaker: Order Members! Order! There is no rigging in this process. I am giving Members a second chance. Kindly wipe out the results so that we go back to voting. Members please consult your hearts.

Hon. Member: We have lack of quorum

Hon. Deputy Speaker: We have quorum in the House Hon. Members! Hon. Members you may now proceed to vote.

(Loud consultations)

Hon. Deputy Speaker: Order Members! Standing Order number 66 (3) allows each and every Member to press either yes once or no once or the button of abstinence once. Do not press the button twice. Kindly start the process and give us the system please.

(Loud consultations)

Hon. Deputy Speaker: Order Hon. Karen! Members we are in the Assembly. Please do the Honorable thing. Order Member! Please give the system time to programme. Hon. Members you are now set to vote. The system is working and we are at 32 votes for now.

(Loud consultations)

We are now at 34 votes, 35 votes cast, negative at 3 and those who abstained at 2 and positives at 9 votes.

(Loud consultations)

Hon. Deputy Speaker: Order Hon. Members! Some Members are still voting.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members it is still counting. Some Members are still voting and that is what is bringing a lot of confusion. Please be Honorable enough and make a choice. Hon. Members I am announcing the results.

(Loud consultations)

Hon. Deputy Speaker: Do you agree?

(Loud consultations)

Hon. Deputy Speaker: Other Members have changed their position. Hon. Members, the Standing Orders only allows you to change your mind within 90 seconds. The result stands at 32 votes, 22 negatives, 2 abstinence and 8 for positive.

(Loud consultations)

Hon. Deputy Speaker: Hon. Members, you cannot question the electronic system of voting. The point being raised by Hon. Snaitch is why the tally has come down from 24 to 22 votes. It is evident that two Members have changed their position. That is the truth.

(Loud consultations)

Hon. Deputy Speaker: I am making the decision based on how Members have voted.

Hon. Nominated Member (Ms. Karen Wanjiku): Point of Order Mr. Speaker

Hon. Deputy Speaker: I do not have a vote but the negatives have 22 and the positives are at 8. Hon. Members order! Hon. Karen you can't. Please sit down. On the Nairobi City County Nuisance Bill 2016 Assembly Bill number 7 of 2016 after voting through the electronic system, the Nays have 22, abstinence 2 and Ayes have 8 votes. The Nays have it.

(Loud consultations)

Hon. Deputy Speaker: Clerk can you proceed.

**THE NAIROBI CITY COUNTY REVENUE AMENDMENT BILL 2016, ASSEMBLY BILL NUMBER 8 OF
2016**

SECOND READING

Hon. Deputy Speaker: Hon. Chairperson for budget we are in Order Number 9. Order Members! We have before us the Nairobi City County Revenue and amendment Bill and you are walking out. Chair budget you may proceed.

Hon. Mike Ogada: Thank you Mr. Speaker sir. I beg to move that the Nairobi City County Revenue Amendment Bill 2016, Bill number 8 of 2016 be read a second time. Mr. Speaker sir, this is the fourth time that the Select Committee on Finance has had the opportunity to interrogate and indeed make recommendations on a Bill for leaving taxes and charges. The Committee has in this undertaking remained alive to our revolving challenges and the dynamics of running this great County.

Mr. Speaker sir, it is public knowledge that the County has made mistakes in its budget implementations over the past years. However, it is the view of the Finance Committee that we must consider the challenges that we have experienced in rolling out this new structure and not as reasons to abandon the journey but as a vital lesson on how the trip can be made more exciting.

Key highlights on the Bill

Mr. Speaker sir, clause 2 of the Bill seeks to amend the revenue Act 2015 under the health sector by increasing the charges for acquisition of food handlers and health certificates from Ksh. 1,000 to Ksh. 1,500. The Committee noted that the proposed charge is consistent with the prevailing realities and in tandem with those imposed in the neighboring counties Act.

Through this amendment the County anticipates to collect Ksh. 215 million projected under this stream in the financial year 2016/17. The Committee will be proposing further amendments to this clause.

Clause 3 of this Bill proposes to amend the section headed Public works and infrastructure sector by introducing charges for towing and clamping services.

**THE NAIROBI CITY COUNTY REVENUE AMENDMENT BILL 2016, ASSEMBLY BILL NO. 8 OF
2016, 2ND READING**

Hon. Member for Embakasi Ward (Mr. Michael Ogada): The Committee was reminded that in the Finance Act of 2013 cum Revenue Act of 2015 the County had set general clamping charges at Kshs.2,000/-. The Bill therefore proposes to distinguish the various charges for clamping vehicles based on weight. The Committee will be proposing amendment to this Clause to make the charges affordable.

Clause 4 of the Bill intends to introduce a tax relief for the Public Service Vehicles (PSV) paying for their seasonal ticket through Saccos the Committee was assured that with the implementation of the said waiver, the County should expect to net in more revenue over and above the amount currently collected under the system. Given the ambiguity that may arise with the implementation of the discount the Committee will be proposing amendments to reduce the cost of the seasonal parking tickets of Public Service Vehicles to be at discount rates.

Summary of the proposed amendments

Mr. Speaker sir, the committee will be proposing amendments to Revenue Act Amendment Bill 2016 which would affect the following Clauses:

Clause 2 – To retain the cost of acquiring Food Handlers Certificate at Ksh. 1,000/-

Mr. Speaker sir, as a Committee we sat, discussed and looked at the Bill as was proposed, the Executive wanted to increase these charges from Ksh.1,000/- to Ksh.1,500/- saying that they are not really able to make a break even in terms of what they collect from the people. But after doing some thorough research and after talking to various stakeholders, we realized that the Executive are working in cohort with some national health institutions who were charging. I think they agreed with the people who need these certificates will be visiting those hospitals and they will be charged not less than a thousand shillings and then they will be coming to the County government to give them a certificate at a cost of around 400 shillings. We realized that there is no agreement that we can see which they made between the institutions and the County and therefore the Committee did decline to the proposal to increase the charges to Ksh.1,500/- and we proposed that it be retained at Ksh.1,000/-.

In Clause 3, to delete the various charges proposed for towing and clamping service and introduce a flat rate for towing saloon cars at Ksh.2,500/- and all other types of vehicles at Ksh.5,000/-. Mr. Speaker sir also in the Bill, Members will realize that the County government did categorize the vehicles in

terms of weight whereby they are talking about the tonnages they proposed the two tons to 2.9 be charged between Ksh.3,000 and Ksh. 4,200 and then the biggest vehicles to be charged Ksh.15,000/- for towing.

Mr. Speaker sir we have also done our own verifications and we have realized that the County government is really working with some towing companies and we are of the opinion that these people are really influencing the increment of these rates and therefore as a Committee we have decided that we are not going to allow Nairobians to be taxed more. We have said that we are not going to accept the proposal that they increase the towing charges from 3,000/- to 15,000/-. So we have said for saloon cars the small cars, they should be charged a flat rate because also they were talking about having different areas i.e. different centers like for example Embakasi they have different charges, and Dagoretti to town different charges.

We are proposing that the County because it is very painful that maybe you have something to do in Kasarani, Mwiki and you leave your car outside only to find that it has been towed and you cannot go and find it around there, so you have come to City Hall to find out where your vehicle has been taken to. Towing a vehicle from Kasarani to Dagoretti I think that is a very painful thing and we should really discourage it. Therefore it is upon these Members to discourage the County officers from doing that, towing a person's vehicle, it will even have a lot of mechanical breakdown. So we have proposed they should have those centres in those particular areas and we have even given them a flat rate of Ksh.2,500/-, we don't allow them to increase.

For the big vehicles which they said are heavier, we are proposing that they charge not more than Ksh.5,000/- instead of the Ksh.15,000/- they are proposing and then in the same Clause 3 they talked about clamping charges. Currently clamping charges are at flat rate of Ksh.2, 000/- and this is for us. But they are proposing that it be increased from the Ksh.2, 000/ and we go by the category of the vehicle and it goes up to Ksh.7, 000/-. We realized that is not also proper because maybe you have gone to a clinic or a chemist to get some medicine and then you come out and find your vehicle clamped you have to pay Ksh.7,000/- and even you can't afford the medicine that you had gone to buy inside there. We realized that is also not really proper. We should not encourage this County that whenever they are not able to collect monies they increase charges to the public, we think that is not in order. Therefore the Committee has proposed, and is pleading with the Assembly to approve a flat rate of Ksh.2, 000/- as it was before.

Mr. Speaker Clause 4 we are talking about seasonal tickets, we did agree sometimes back when we were passing the last Finance Bill that various vehicles were supposed to have various charges for example the taxis were supposed to pay Ksh.6, 000/- then the matatus of between 1-13 passengers were supposed to pay 5,000/- monthly. But there was a demonstration and they came to the County and did talk to the Executive who agreed to give them discounted rates if they were going to pay through their Saccos. We have very many issues to do with the Saccos because one, as a Committee we discovered these things are verbal agreements whereby the Executive agreed with the Saccos to collect on their behalf

where they don't have the legal document to really allow the Saccos to collect on behalf of the County. So our fear in case one Sacco refuses to remit the money they collect on behalf of the County, what happens?

There was an agreement between 14-42 and 1-13 passengers, the charges were different and they were given discount at the rate of 27% and 34%. We realized that those figures are ambiguous. So we have decided to encourage the Executive to put figures down not percentage. So you realize at that rate we are going to have 3,100/- for matatus likewise. So we are removing and deleting percentage and instead having figures so that when the matatu guy comes, he is not really played around in terms of figures. So Mr. Speaker sir, as evidenced above the Finance Committee has only proposed reductions on various charges. The Committee has kept charges low to ensure that the City residents are not overburdened with taxation that will limit their support for the County government. The Committee has asked the County Executive to come up with efficient measures of collecting the charges to avoid any leakages of intended revenues.

Going forward, the Committee has weighed on the County Executive Committee Member for Finance to always ensure that any proposed alterations in taxes and tax measures are based on thorough studies in allowing the provisions of Section 132 (3) of the Public Finance Management (PFM) Act. Mr. Speaker sir, I beg to call Hon. Njoroge Kairu to second.

Hon. Member for Woodley Ward (Mr. Njoroge Kairu): Thank you very much Mr. Speaker sir. What the Chairman Finance has said is true. We as the Committee of Finance we sat down and looked at the Bill very thoroughly and there are some amendments that we have made that we see fit the Nairobians. Mr. Speaker sir if the Bill will be implemented the way we have proposed, and then Nairobians will benefit from it. With those few remarks, I beg to second.

(Question that the Nairobi City County Revenue Amendment Bill 2016, Assembly Bill No. 8 of 2016 be read a 2nd time is proposed)

Hon. Deputy Speaker: Hon. Members.

Hon. Karen Wanjiku (Nominated Member): Thank you Mr. Speaker sir, I beg to support. I have gone through the Revenue Bill and it is like we were in the same spirit with the Budget Committee because-

Hon. Deputy Speaker: Hon. Jaffer what is it?

Hon. Member for Parklands Ward (Mr. Jaffer Kassam): Mr. Speaker sir I want to bring to your attention that we have run out of quorum.

Hon. Deputy Speaker: Clerk can you confirm? Serjeant-At-Arms, kindly ring the bell for 10 minutes under Standing Order 32. Hon. Member after the bell has been rang for 8 minutes, there is still lack of quorum in the House and I so direct under Standing Order No. 39 that, the Nairobi City County Revenue

Amendment Bill 2016 to resume on Tuesday at 2.30 p.m. Hon. Members under Standing Order No. 32 (2a), the House stands adjourned to next week on Tuesday at 2.30 p.m. Thank you.

(The House rose at 4.35 p.m.)